

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

LAWRENCE R. WHEATLEY,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 1:11-cv-00046-TWP-DML
	)	
HENDRICKS COUNTY SHERIFF,	)	
DAVID R. STUMM,	)	
	)	
Defendants.	)	

**ENTRY ON DEFENDANTS' MOTION FOR LEAVE TO FILE**

**AMENDED EXHIBIT LIST**

This matter is before the Court on Defendants' motion for leave to file its amended exhibit list. (Dkt. 76). Defendants contend they need to add new exhibits in response to Plaintiff's proposed jury instructions, which includes a proposed damages instruction requesting the jury be instructed as to the "the earnings Mr. Wheatley as lost because of his inability or diminished ability to work." Therefore, Defendants seek to add Mr. Wheatley's income tax returns from 2005 through 2010 and his answer to Interrogatory 5, in which Mr. Wheatley stated, "I lost an uncalculated amount due to the loss of one week of work due to the occurrence of the cluster headache."

Mr. Wheatley objects to the addition of the tax return exhibits. First, he argues the tax returns are "voluminous and contain much irrelevant and highly sensitive information." Dkt. 79 at 1. Second, he argues Defendants cannot claim surprise to Mr. Wheatley's loss of income claim, as he disclosed the loss in his answer to Interrogatory 5, as well as in his deposition testimony, which Defendants cite to support their motion. The Court is inclined to agree with

Mr. Wheatley. If Defendants intend to introduce Mr. Wheatley's joint tax returns on the issue of damages, it must identify the specific portions it seeks to introduce, but they may not introduce the joint tax returns in their entirety. Therefore, the Court denies Defendants' motion for leave to amend its exhibit list to add Mr. Wheatley's tax returns from 2005 through 2010. Defendants however may offer a redacted and otherwise relevant exhibit to show Mr. Wheatley's income.

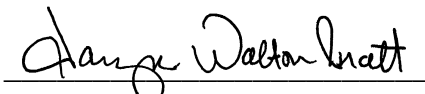
Mr. Wheatley does not object to Defendants' addition of Interrogatory 5, and the Court finds it relevant. Therefore, the Court grants Defendants' motion for leave to amend its exhibit list to add Mr. Wheatley's answer to Interrogatory 5.

### **CONCLUSION**

Defendants' Motion for Leave to File Amended Exhibit List (Dkt. 76) is **DENIED in part** and **GRANTED in part**. Specifically, Defendants may not add as exhibits Mr. Wheatley's 2005 through 2010 tax returns in whole. Defendants may add Mr. Wheatley's response to Interrogatory 5. Defendants have until Monday September 17, 2012 to file their amended exhibit list. If Defendants so choose, they may submit a more specific exhibit of Mr. Wheatley's income which they wish to use at trial. Mr. Wheatley will then have until Wednesday September 26, 2012 to file any objections.

SO ORDERED.

Date: 09/13/2012

  
Hon. Tanya Walton Pratt, Judge  
United States District Court  
Southern District of Indiana

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